

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

AVI TRIMBAK DESHMUKH, M.D.

Case No. 800-2017-038825

**Physician's and Surgeon's
Certificate No. C42380**

Respondent

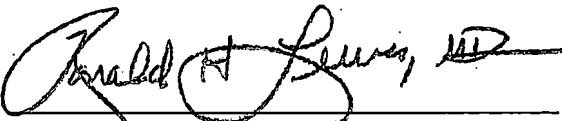
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 21, 2019.

IT IS SO ORDERED: January 22, 2019.

MEDICAL BOARD OF CALIFORNIA



**Ronald H. Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 EMILY L. BRINKMAN
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8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the First Amended Accusation
Against:

Case No. 800-2017-038825

14 **AVI TRIMBAK DESHMUKH, M.D.**
15 831 Eureka Street
Weatherford, TX 76086-5807

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 **Physician's and Surgeon's Certificate No. C**
17 **42380**

18 Respondent.

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
24 of California (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Xavier Becerra, Attorney General of the State of California, by Emily L. Brinkman,
26 Deputy Attorney General.
27
28

2. Respondent Avi Trimbak Deshmukh, M.D. (Respondent) enters into this Stipulated Settlement in consultation with his Peter Osinoff, whose address is: Bonne Bridges Mueller O’Keefe & Nichols, 355 South Grand Ave., Suite 1750, Los Angeles, CA 90071.

3. On or about November 30, 1987, the Board issued Physician's and Surgeon's Certificate No. C 42380 to Avi Trimbak Deshmukh, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-038825, and will expire on July 31, 2019, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-038825 was filed before the Board. The Accusation and all other statutorily required documents were properly served on Respondent on July 9, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. First Amended Accusation No. 800-2017-038825 was filed before the Board and is currently pending before the Board. All statutorily required documents were properly served on Respondent on November 20, 2018.

6. A copy of First Amended Accusation No. 800-2017-038825 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondent has carefully read, and understands the charges and allegations in First Amended Accusation No. 800-2017-038825. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

8. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

10. Respondent admits the truth of each and every charge and allegation in First Amended Accusation No. 800-2017-038825.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 42380 issued to Respondent Avi Trimbak Deshmukh, M.D. is revoked. However, the revocation is stayed and

Respondent is placed on probation for three (3) years on the following terms and conditions.

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 25 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 50 hours of CME of which 25 hours were in satisfaction of this condition.

2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

1 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
2 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
3 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
4 Respondent shall participate in and successfully complete that program. Respondent shall
5 provide any information and documents that the program may deem pertinent. Respondent shall
6 successfully complete the classroom component of the program not later than six (6) months after
7 Respondent's initial enrollment, and the longitudinal component of the program not later than the
8 time specified by the program, but no later than one (1) year after attending the classroom
9 component. The professionalism program shall be at Respondent's expense and shall be in
10 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

11 A professionalism program taken after the acts that gave rise to the charges in the
12 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
13 or its designee, be accepted towards the fulfillment of this condition if the program would have
14 been approved by the Board or its designee had the program been taken after the effective date of
15 this Decision.

16 Respondent shall submit a certification of successful completion to the Board or its
17 designee not later than 15 calendar days after successfully completing the program or not later
18 than 15 calendar days after the effective date of the Decision, whichever is later.

19 4. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
20 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
21 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose
22 licenses are valid and in good standing, and who are preferably American Board of Medical
23 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
24 relationship with Respondent, or other relationship that could reasonably be expected to
25 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
26 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
27 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

28 The Board or its designee shall provide the approved monitor with copies of the Decision(s)

1 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
2 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
3 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
4 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
5 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
6 signed statement for approval by the Board or its designee.

7 Within 60 calendar days of the effective date of this Decision, and continuing throughout
8 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
9 make all records available for immediate inspection and copying on the premises by the monitor
10 at all times during business hours and shall retain the records for the entire term of probation.

11 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
12 date of this Decision, Respondent shall receive a notification from the Board or its designee to
13 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
14 shall cease the practice of medicine until a monitor is approved to provide monitoring
15 responsibility.

16 The monitor(s) shall submit a quarterly written report to the Board or its designee which
17 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
18 are within the standards of practice of medicine, and whether Respondent is practicing medicine
19 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
20 that the monitor submits the quarterly written reports to the Board or its designee within 10
21 calendar days after the end of the preceding quarter.

22 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
23 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
24 name and qualifications of a replacement monitor who will be assuming that responsibility within
25 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
26 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
27 notification from the Board or its designee to cease the practice of medicine within three (3)
28 calendar days after being so notified. Respondent shall cease the practice of medicine until a

1 replacement monitor is approved and assumes monitoring responsibility.

2 In lieu of a monitor, Respondent may participate in a professional enhancement program
3 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
4 review, semi-annual practice assessment, and semi-annual review of professional growth and
5 education. Respondent shall participate in the professional enhancement program at Respondent's
6 expense during the term of probation.

7 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
8 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
9 Chief Executive Officer at every hospital where privileges or membership are extended to
10 Respondent, at any other facility where Respondent engages in the practice of medicine,
11 including all physician and locum tenens registries or other similar agencies, and to the Chief
12 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
13 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
14 calendar days.

15 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

16 6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
17 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
18 advanced practice nurses.

19 7. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
20 governing the practice of medicine in California and remain in full compliance with any court
21 ordered criminal probation, payments, and other orders.

22 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
23 under penalty of perjury on forms provided by the Board, stating whether there has been
24 compliance with all the conditions of probation.

25 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
26 of the preceding quarter.

27 9. GENERAL PROBATION REQUIREMENTS.

28 Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and

1 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
2 patient care, clinical activity or teaching, or other activity as approved by the Board. If
3 Respondent resides in California and is considered to be in non-practice, Respondent shall
4 comply with all terms and conditions of probation. All time spent in an intensive training
5 program which has been approved by the Board or its designee shall not be considered non-
6 practice and does not relieve Respondent from complying with all the terms and conditions of
7 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
8 on probation with the medical licensing authority of that state or jurisdiction shall not be
9 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
10 period of non-practice.

11 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
12 months, Respondent shall successfully complete the Federation of State Medical Boards' Special
13 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
14 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
15 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

16 Respondent's period of non-practice while on probation shall not exceed two (2) years.

17 Periods of non-practice will not apply to the reduction of the probationary term.

18 Periods of non-practice for a Respondent residing outside of California will relieve
19 Respondent of the responsibility to comply with the probationary terms and conditions with the
20 exception of this condition and the following terms and conditions of probation: Obey All Laws;
21 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
22 Controlled Substances; and Biological Fluid Testing.

23 Any period of monitoring by the Texas Medical Board will be considered a period of
24 probation by the California Medical Board and will not be considered a period of non-practice.

25 12. COMPLETION OF PROBATION. Respondent shall comply with all financial
26 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
27 completion of probation. Upon successful completion of probation, Respondent's certificate shall
28 be fully restored.

1 13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
2 of probation is a violation of probation. If Respondent violates probation in any respect, the
3 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
4 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
5 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
6 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
7 the matter is final.

8 14. LICENSE SURRENDER. Following the effective date of this Decision, if
9 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
10 the terms and conditions of probation, Respondent may request to surrender his or her license.
11 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
12 determining whether or not to grant the request, or to take any other action deemed appropriate
13 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
14 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
15 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
16 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
17 application shall be treated as a petition for reinstatement of a revoked certificate.

18 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
19 with probation monitoring each and every year of probation, as designated by the Board, which
20 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
21 California and delivered to the Board or its designee no later than January 31 of each calendar
22 year.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Peter Osinoff. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: Nov. 26, 2018

Avi Trimbak Deshmukh M.D. M34
AVI TRIMBAK DESHMUKH, M.D.
Respondent

I have read and fully discussed with Respondent Avi Trimbak Deshmukh, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 11/28/18


PETER OSINOFF
Attorney for Respondent

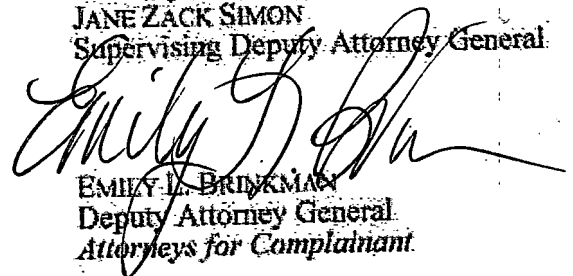
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 11/29/2018

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General


EMILY L. BRINKMAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 800-2017-038825

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO NOV 20 20 18
BY D. Richards ANALYST

1 XAVIER BECERRA
Attorney General of California
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7 *Attorneys for Complainant*

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9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the First Amended Accusation
Against:

Case No. 800-2017-038825

FIRST AMENDED ACCUSATION

14 **Avi Trimbak Deshmukh, M.D.**
15 831 Eureka Street
Weatherford, TX 76086-5807

16 **Physician's and Surgeon's Certificate**
17 **No. C 42380,**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in
23 her official capacity as the Executive Director of the Medical Board of California, Department of
24 Consumer Affairs (Board).

25 2. On or about November 30, 1987, the Medical Board issued Physician's and Surgeon's
26 Certificate Number C 42380 to Avi Trimbak Deshmukh, M.D. (Respondent). The Physician's
27 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on July 31, 2019, unless renewed.

JURISDICTION

3. This First Amended Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2305 of the Code states:

“The revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter [Chapter 5, the Medical Practice Act] shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.”

6. Section 141 of the Code states:

“(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

“(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.”

\\

1 **CAUSE FOR DISCIPLINE**

2 **(Discipline, Restriction, or Limitation Imposed by Another Jurisdiction)**

3 7. On October 20, 2017, the Texas Medical Board (Texas Board) issued an Agreed
4 Order with Respondent. The basis of the Agreed Order was Respondent's failure to comply with
5 the standard of care for two patients. For the first patient, a post-operative cystoscopy patient
6 with active bleeding and a known bleeding disorder, Respondent still discharged the patient
7 despite her dementia, bleeding disorder, and post-procedure bleeding. The patient subsequently
8 died from acute hemorrhagic cystitis due to coagulopathy and bronchopneumonia. As to the
9 second patient, Respondent failed to adequately document the patient's post-procedure hematoma
10 and the extent of the numerous post-surgical aspirations. The Agreed Order also noted two
11 instances of prior disciplinary action taken against Respondent. As part of the Agreed Order, the
12 Texas Board issued a Public Reprimand of Respondent and required that his practice be
13 monitored for eight consecutive monitoring cycles and complete at least 24 hours of continuing
14 medical education in several different areas. Copies of the Texas Board Orders are attached as
15 Exhibit A.

16 8. On February 14, 2018, the State Medical Board of Ohio (Ohio Board) entered into an
17 Order with Respondent following his surrender of his Ohio medical license and agreement to
18 permanent revocation of that license. The basis of the Order was the Agreed Order issued by the
19 Texas Board. A copy of the Ohio Board Order is attached as Exhibit B.

20 9. Respondent's conduct and the actions of the Texas and Ohio Board's as set forth in
21 paragraphs 7 and 8, above, and within the Board documents attached as Exhibits A and B,
22 constitutes unprofessional conduct within the meaning of section 2305 and conduct subject to
23 discipline within the meaning of section 141(a).

24 **DISCIPLINARY CONSIDERATIONS**

25 10. To determine the degree of discipline, if any, to be imposed on Respondent Avi
26 Trimbak Deshmukh, M.D., Complainant alleges that on or about July 5, 2006, the Board issued a
27 Public Letter of Reprimand to Respondent in Case No. 16-2006-174838 based on the discipline
28

1 imposed by the Texas Medical Board on April 7, 2006. That decision is now final and is
2 incorporated by reference as if fully set forth herein.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Medical Board of California issue a decision:

- 6 1. Revoking or suspending Physician's and Surgeon's Certificate Number C 42380,
7 issued to Avi Trimbak Deshmukh, M.D.;
- 8 2. Revoking, suspending or denying approval of Avi Trimbak Deshmukh, M.D.'s
9 authority to supervise physician assistants and advanced practice nurses;
- 10 3. Ordering Avi Trimbak Deshmukh, M.D., if placed on probation, to pay the Board the
11 costs of probation monitoring; and
- 12 4. Taking such other and further action as deemed necessary and proper.

13
14 DATED: 11/20/2018


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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Exhibit A
Texas Medical Board Orders

LICENSE NO. H-1067

IN THE MATTER OF

BEFORE THE

THE LICENSE OF

AVI TRIMBAK DESHMUKH, M.D.

TEXAS MEDICAL BOARD

AGREED ORDER

On the 20 day of October, 2017, came on to be heard before the Texas Medical Board (Board), duly in session, the matter of the license of Avi Trimbak Deshmukh, M.D. (Respondent).

On May 30, 2017, Respondent appeared in person with counsel, James McClendon, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. The Board's representatives were LuAnn Morgan, a member of the Board, and Courtney Mack Townsend, Jr., M.D., a member of a District Review Committee (Panel). Kevin Moczygomba represented Board Staff.

BOARD CHARGES

Board Staff charged that Respondent violated the standard of care by discharging a post-operative cystoscopy patient, Patient 1, who was actively bleeding and who had a known bleeding disorder. The autopsy found that the patient died from acute hemorrhagic cystitis due to coagulopathy and bronchopneumonia.

Board Staff further charged that Respondent violated the standard of care by failing to recognize improper penile implant device placement at the time of surgery or during multiple subsequent exams, performing multiple unnecessary scrotal aspirations on another patient, Patient 2, and failing to maintain adequate medical records. Another surgeon subsequently corrected the patient's implant.

BOARD HISTORY

Respondent has previously been the subject of disciplinary action by the Board.

On April 7, 2006, the Board entered an Agreed Order based upon Respondent prescribing a sulfa antibiotic to a patient with a known sulfa allergy. The Order required completion of a 10 hour risk management course and payment of a \$1,000 administrative penalty.

On June 8, 2007, the Board entered a Mediated Agreed Order based upon Respondent's failure to maintain adequate medical records related to a cystoscopy. The Order required Respondent to present at least two seminars addressing female urinary incontinence with a ten to twenty minute discussion regarding the use or non-use of cystoscopy after operative treatment of female urinary incontinence.

Upon the recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.

FINDINGS

The Board finds the following:

1. General Findings:

- a. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (Act) or the Rules of the Board.
- b. Respondent currently holds Texas Medical License No. H-1067. Respondent was originally issued this license to practice medicine in Texas on December 3, 1986. Respondent is not licensed to practice in any other state.
- c. Respondent is primarily engaged in the practice of Urology. Respondent is Board certified by the American Board of Urology, a member of the American Board of Medical Specialties.
- d. Respondent is 65 years of age.

2. Specific Panel Findings:

- a. In regards to Patient 1, Respondent failed to meet the standard of care by discharging the patient in light of her dementia, bleeding disorder, and post-procedure bleeding.
- b. Respondent wrote Patient 1 a prescription for Levaquin when he knew she was allergic to that medication and that he only changed the prescription after it was requested by the family before her discharge.
- c. Respondent failed to adequately document Patient 2's post-procedure hematoma and the extent of the numerous post-surgical aspirations.

3. Aggravating Factors/Mitigating Factors:

- a. In determining the appropriate sanctions in this matter the Panel considered the following aggravating factors:
 - i. Respondent has a history of slow and poor responses to post-operative complaints by patients.
 - ii. Respondent has a previous Board action related to prescribing a medication to a patient with a known allergy to that drug.
 - iii. Respondent also has a previous Board action for failure to maintain adequate documentation.
- b. In determining the appropriate sanctions in this matter, the Panel also considered, as mitigating, that:
 - i. Respondent cooperated in the investigation of the allegations related to this Agreed Order. Respondent neither admits nor denies the information given above. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.
 - ii. On Patient 1, at the time of discharge her PACU scores were 10/10 (maximum) and he gave appropriate discharge instructions to the patient and her family.
 - iii. On Patient 1, Respondent called the patient's family that evening to check on her and was told that the patient was "resting, urinating and was fine."

- iv. On Patient 1, the Board specifically found that Respondent otherwise met the standard of care in all respects.

CONCLUSIONS OF LAW

Based on the above Findings, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.
2. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act prohibited under Section 164.052 of the Act.
3. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of a Board rule; specifically Board Rule 165.1, which requires the maintenance of adequate medical records.
4. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare, as further defined by Board Rules: 190.8(1)(A), failure to treat a patient according the generally accepted standard of care; and 190.8(1)(C), failure to use proper diligence in one's professional practice.
5. Section 164.053(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed.
6. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule.
7. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

ORDER

Based on the above Findings and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

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1. This Agreed Order shall constitute a PUBLIC REPRIMAND of Respondent, and Respondent is hereby reprimanded.

2. Respondent shall be subject to the following terms and conditions for eight consecutive monitoring cycles (defined below). Respondent's practice shall be monitored by a physician (monitor), in accordance with §164.001(b)(7) of the Act. The Compliance Division of the Board shall designate the monitor and may change the monitor at any time for any reason. The monitor shall have expertise in a similar specialty area as Respondent. The Compliance Division shall provide a copy of this Order to the monitor, together with other information necessary to assist the monitor.

(a) As requested by the Compliance Division, Respondent shall prepare and provide complete legible copies of selected patient medical and billing records (selected records). The Compliance Division shall select records for at least 30 patients seen by Respondent during each three-month period following the last day of the month of entry of this Order (reporting period). The Compliance Division may select records for more than 30 patients, up to 10 percent of the patients seen during a reporting period. If Respondent fails to see at least 30 patients during any three-month period, the term of this Order shall be extended until Respondent can submit a sufficient number of records for a monitor to review.

(b) The monitor shall perform the following duties:

- 1) Personally review the selected records;
- 2) Prepare written reports documenting any perceived deficiencies and any recommendations to improve Respondent's practice of medicine or assist in the ongoing monitoring process. Reports shall be submitted as requested by the Compliance Division; and
- 3) Perform any other duty that the Compliance Division determines will assist the effective monitoring of Respondent's practice.

(c) The Compliance Division shall provide to Respondent a copy of any deficiencies or recommendations submitted by the monitor. Respondent shall implement the recommendations as directed by the Compliance Division. If the chart monitor recommends that Respondent restrict or suspend his or her practice of medicine, Respondent shall be required to personally appear before a panel of Board

representatives, upon written request mailed to Respondent's last known address on file with the Board at least 10 calendar days before the requested appearance date. Such appearance shall be for the purpose of consideration of the chart monitor's recommendations of restriction or suspension and held in accordance with 22 TEX. ADMIN. CODE, §187.44. Based upon the panel's findings and recommendations, the Board may modify this Order so that Respondent's practice is restricted or suspended, in accordance with the chart monitor's recommendations, or take any other action that may be appropriate to resolve the issues presented.

- (d) The monitor may recommend that Respondent complete a competency evaluation. A monitor's recommendation for a competency evaluation must be reviewed by the Chair of the Disciplinary Process and Review Committee (DPRC) for the purpose of making a determination of whether a competency evaluation is warranted. The Chair may approve or deny the monitor's recommendation. If the Chair approves the recommended competency evaluation, then the following terms shall apply and shall be a requirement of this Order:

- 1) Within 10 calendar days of being notified by the Compliance Division of the Board that the Chair has approved the monitor's recommendation, Respondent must contact a program approved by the Board and schedule an assessment of at least two days in length to determine Respondent's competence and ability to practice medicine.
- 2) Respondent shall authorize the approved program to send a written report regarding Respondent's performance and results of the competency evaluation directly to the compliance officer.
- 3) Upon completion of the competency evaluation, and based upon its results, Respondent must personally appear before a panel of Board representatives, upon written request mailed to Respondent's last known address on file with the Board at least 10 calendar days before the requested appearance date. The panel may make recommendations for appropriate action, including that Respondent follow all the program recommendations, comply with

other necessary re-training or re-education measures, and may impose any other restrictions or suspension of Respondent's practice. Section 187.44 of this title (relating to Probationer Show Compliance Proceedings) applies to such appearances.

- 4) The Board may temporarily restrict or suspend Respondent's license based upon the results of the competency evaluation or Respondent's failure to follow any and all requirements set forth in subsection (c) of this section. Chapter 187, Subchapter F of this title (relating to Temporary Suspension and Restriction Proceedings) applies to such proceedings.

- (e) The monitor shall be the agent of the Board, but shall be compensated by the Respondent through the Board. Such compensation and any costs incurred by the monitor shall be paid by Respondent to the Board and remitted by the Board to the monitor. Respondent shall not charge the compensation and costs paid to the monitor to any patients.

- (f) A "monitoring cycle" begins when the Compliance Division selects patient records for review, and concludes when Respondent receives the monitor's report for that group of records and has made payment for the costs of that monitoring cycle.

3. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete at least 24 hours of continuing medical education (CME) approved for Category I credits by the American Medical Association or American Osteopathic Association, divided as follows: at least eight hours of CME on the topic of urologic surgery, at least eight hours of CME on the topic of medical record keeping, and at least eight hours of CME on the topic of risk management, all approved in writing in advance by the Executive Director or an authorized designee. To obtain approval for the course, Respondent shall submit in writing to the Compliance Department information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Department on or before the expiration of the time limit set

forth for completion of the course. The CME requirements set forth in this paragraph shall be in addition to all other CME required for licensure maintenance.

4. At all times while Respondent is under the terms of this Order, Respondent shall give a copy of this Order to all hospitals, nursing homes, treatment facilities, and other health care entities where Respondent has privileges, has pending an application for privileges, applies for privileges, or otherwise practices. Within 30 days of being first contacted by the Compliance Division of the Board following entry of this Order, Respondent shall provide to the Compliance Division of the Board documentation, including proof of delivery showing that the Order was delivered to all such facilities.

5. The time period of this Order shall be extended for any period of time that: (a) Respondent subsequently practices exclusively outside the State of Texas; (b) Respondent's license is subsequently cancelled for nonpayment of licensure fees; (c) this Order is stayed or enjoined by Court Order; or (d) for any period of time longer than 60 consecutive days that Respondent does not actively practice medicine. If Respondent leaves Texas to practice elsewhere or ceases active practice for more than 60 consecutive days, Respondent shall immediately notify the Board in writing. Upon Respondent's return to active practice or return to practice in Texas, Respondent shall notify the Board in writing. When the period of extension ends, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order. Respondent shall pay all fees for reinstatement or renewal of a license covering the period of extension or tolling.

6. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

7. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.

8. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within 10 days of the address change. This information shall be submitted to the Registration Department and the Compliance Department of the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by

the Board against Respondent pursuant to the Act. Respondent agrees that 10 days notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent waives the 45-day notice requirement provided by §164.003(b)(2) of the Medical Practice Act and agrees to 10 days notice, as provided in 22 Texas Administrative Code §187.44(4).

9. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, or to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

10. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

11. The above referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for one year following the date of the entry of this Order. If, after the passage of the one year period, Respondent wishes to seek amendment or termination of these conditions, Respondent may petition the Board in writing. The Board may inquire into the request and may, in its sole discretion, grant or deny the petition without further appeal or review. Petitions for modifying or terminating may be filed only once a year thereafter.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

(SIGNATURE PAGES FOLLOW)

I, AVI TRIMBAK DESHMUKH, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: October 26th, 2017.

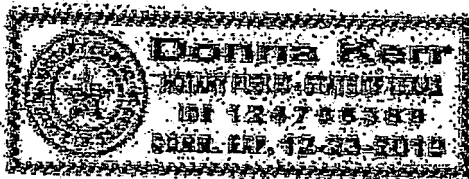
AT: Deshmukh, M.D. FACS, MBA
AVI TRIMBAK DESHMUKH, M.D. MHA
Respondent

STATE OF Texas

COUNTY OF Parker

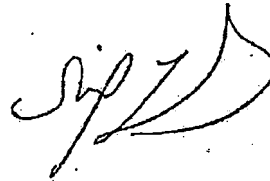
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SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this
26th day of October, 2017.



Donna Kerr
Signature of Notary Public

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
13 day of November, 2017.

A handwritten signature in black ink, appearing to read 'SZZ', is written above a horizontal line.

Sherif Z. Zaafran, M.D., President
Texas Medical Board

LICENSE NO. H-1067

IN THE MATTER OF

THE LICENSE OF

AVI TRIMBAK DESHMUKH, M.D.

BEFORE THE

TEXAS MEDICAL BOARD

AGREED ORDER

On the 7 day of April, 2006, came on to be heard before the Texas Medical Board (the "Board"), duly in session, the matter of the license of Avi Trimbak Deshmukh, M.D. ("Respondent").

On January 24, 2006, Respondent appeared in person, with counsel, Joyce McLaughlin, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. Roger Calhoun represented Board staff. The Board's representatives were Eddie Miles, Jr., a member of the Board, and Frank R. Wellborne, D.O., a member of the District Review Committee.

Upon the recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings of Fact and Conclusions of Law and enters this Agreed Order.

FINDINGS OF FACT

The Board finds that:

1. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (the "Act") or the Rules of the Board.
2. Respondent currently holds Texas Medical License No. H-1067. Respondent was originally issued this license to practice medicine in Texas on December 3, 1986. Respondent is also licensed to practice in California and Ohio.
3. Respondent is primarily engaged in the practice of urology. Respondent is board certified in this specialty by the American Board of Medical Specialties.
4. Respondent is 54 years of age.

5. Respondent has not previously been the subject of disciplinary action by the Board.
6. On October 27, 2004, patient S.P., a 62 year-old male, was seen in the Respondent's office for evaluation of voiding dysfunction. The evaluation included a cystoscopy that showed two bladder stones. The Respondent recommended that these be removed with a lithotripsy. It was noted in the Respondent's record that S.P. had an allergy to sulfa.
7. S.P. was admitted on November 4, 2004 for treatment of bladder stones. S.P. again, verbally informed the Respondent of his allergy to sulfa and especially to Bactrim.
8. There are multiple notations of his allergy to "sulfa" in the medical records: including the preoperative order sheet, anesthesia record, post-anesthesia record, medication records and discharge instruction sheet.
9. S.P. was given an allergy bracelet to wear in the hospital.
10. S.P. was discharged from the hospital with a prescription for Septra, a sulfa antibiotic. He took a dose the day of discharge and the following morning. He then developed an allergic reaction. S.P. consulted with both the Respondent and his PCP.
11. Blisters formed over most of his body by November 8, 2004 and he required hospitalization on November 10, 2004. S.P. developed Stevens-Johnson Syndrome.
12. Mitigating factors include:
 - a. Respondent did not charge a fee for his services.
 - b. Respondent has taken corrective action to avoid future similar instances.
 - Respondent has changed his office intake form to include more space for more specific disclosure of drug allergies.
 - Respondent spends more time discussing with the patient what exactly his or her reaction was.
13. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent's cooperation, through consent to this Agreed Order, pursuant to the provisions of Section 164.002 the Act, will save money and resources for the State of Texas. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.

2. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare.

3. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.

4. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule. Such sanctions include: revocation, suspension, probation, public reprimand, limitation or restriction on practice, counseling or treatment, required educational or counseling programs, monitored practice, public service, and an administrative penalty.

5. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

6. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

ORDER

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that:

1. Within one year from the entry of this Order, Respondent shall enroll in and successfully complete a course in Risk Management of at least 10 hours in duration, approved in writing in advance by the Executive Director of the Board. To obtain approval for the course, Respondent shall submit in writing to the Director of Compliance for the Board information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Director of Compliance for the Board on or before the expiration of the time limit set forth for completion of the course.

2. Respondent shall pay an administrative penalty in the amount of \$1000 within 90 days of the entry of this Order. The administrative penalty shall be paid in a single payment by cashier's check or money order payable to the Texas Medical Board and shall be submitted to the

Director of Compliance for the Board for routing so as to be remitted to the Comptroller of Texas for deposit in the general revenue fund. Respondent's failure to pay the administrative penalty as ordered shall constitute grounds for further disciplinary action by the Board, and may result in a referral by the Executive Director of the Board for collection by the Office of the Attorney General.

3. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

4. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

5. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.

6. Respondent shall inform the Board in writing of any change of Respondent's mailing or practice address within ten days of the address change. This information shall be submitted to the Permits Department and the Director of Compliance for the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

7. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, and to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that ten days notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent waives the 30 day notice requirement provided by §164.003(b)(2) of the Medical Practice Act and agrees to 10 days notice, as provided in 22 Texas Administrative Code §187.44(4).

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

I, AVI TRIMBAK DESHMUKH, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

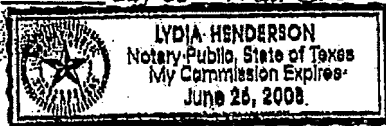
DATED: March 07th, 2006.

Avi Trimbak Deshmukh, M.D.
Respondent

STATE OF Texas
COUNTY OF Erath

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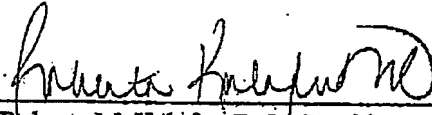
SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 7th day of March, 2006.



(Notary Seal)

Lydia Henderson
Signature of Notary Public

7 SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
day of April, 2006.



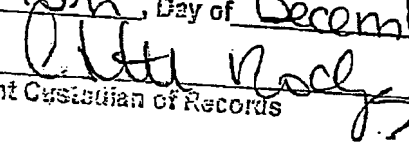
Roberta M. Kalafut, D.O., President
Texas Medical Board

STATE OF TEXAS
COUNTY OF TRAVIS

I, Chotw Rodriguez, certify that I am an official
assistant custodian of records for the Texas Medical Board
and that this is a true and correct Copy of the original, as it
appears on the file in this office.

Witness my official hand and seal of the BOARD.

This 13th Day of December, 20 17



Assistant Custodian of Records

IN THE MATTER OF
THE COMPLAINT AGAINST
AVI TRIMBAK DESHMUKH, M.D.

LICENSE H-1067

BEFORE THE

TEXAS MEDICAL BOARD

AGREED ORDER

On the 8th day of June, 2007, came on to be heard before the Texas Medical Board ("the Board"), duly in session, the matter of the license of Avi Trimbak Deshmukh, M.D. ("Respondent").

On March 18, 2005, Respondent appeared in person, with counsel, Joyce McLaughlin, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. Roger Calhoun represented Board staff. The Board's representatives were Nancy Seliger, a member of the Board, and Janet Tornelli-Mitchell, M.D., a member of the District Review Committee.

The matter was transferred to Scott M. Freshour, who subsequently filed a complaint at State Office of Administrative Hearings ("SOAH"). The parties agreed to mediate this matter. The Board was represented by Charles Oswalt, III, M.D. and Scott M. Freshour at the mediation. Respondent was represented by J. Mark Holbrook. As a result of the mediation a tentative settlement was reached.

Upon the recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings of Fact and Conclusions of Law and enters this Agreed Order.

FINDINGS OF FACT

The Board finds that:

1. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under TEX. OCC. CODE ANN. Title 3, Subtitle B or the Rules of the Board.

2. Respondent currently holds Texas Medical License No. H-1067. Respondent was originally issued this license to practice medicine in Texas on December 3, 1986. Respondent is also licensed to practice in California and Ohio.
3. Respondent is primarily engaged in the practice of urology. Respondent is board certified in this specialty by the American Board of Medical Specialties.
4. Respondent is 54 years of age.
5. There is a dispute between the parties and experts concerning when the use of a post-operative cystoscopy is required after a Tension Free Vaginal Tape (TVT) urethropepy revision procedure.
6. The parties agree there is a bona fide dispute regarding the use of cystoscopy. Respondent's records did not adequately reflect his rationale in this case.
7. This order is not intended to make a determination of this issue.
8. Respondent denies any violation of the Medical Practice Act.
9. The Respondent has not been disciplined or investigated by the Board since this disputed issue.
10. Respondent has a long history of service to the community. Respondent routinely teaches seminars throughout the country and internationally related to urology. Respondent has also published numerous papers.
11. Respondent does not admit or deny the Conclusions of Law set forth in this Agreed Order. However, Respondent has cooperated with Board staff in the investigation of the allegations

related to this Agreed Order. Respondent's cooperation, through consent to this Agreed Order, pursuant to the provisions of Section 164.002 the Act, will save money and resources for the State of Texas. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.
2. Section 164.051(a)(3) authorizes the disciplinary action based inadequate medical records.
3. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.
4. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

ORDER

Based on the above, Respondent shall be subject to the following from the date of the signing of this Order by the presiding officer of the Board:

1. Within the next year Respondent shall incorporate into at least two seminars addressing female urinary incontinence a ten to twenty minute discussion regarding use or non-use of cystoscopy after operative treatment of female urinary incontinence. Within 90 days Respondent shall submit an outline of this discussion to the Board. One year from the date of the signing of this Order or earlier Respondent shall provide the Board a list of seminars where he has made this presentation.
2. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.
3. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.
4. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, and to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent does not waive all notice requirements under Section 164.003 of the Medical Practice Act related to informal proceedings, and Section 2001.054(c) of the Administrative Procedure Act.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

I, AVI TRIMBAK DESHMUKH, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 7/11/11, 2007.

Avi Trimbak Deshmukh, M.D.
Respondent

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
8th day of April, 2007.
June, 2007.

STATE OF TEXAS
COUNTY OF TRAVIS

Chetna Reddy certify that I am an official
assistant custodian of records for the Texas Medical Board
and that this is a true and correct copy of the original, as it
appears on file in this office.

Witness my official hand and seal of the Board,

this 13th day of December, 2017

Chetna Reddy
Assistant Custodian of Records

Roberta M. Kalafut, D.O.
President
Texas Medical Board

HEARING CONDUCTED BY THE
TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS
SOAH DOCKET NO. _____
LICENSE NO. H-1067

IN THE MATTER OF THE
COMPLAINT AGAINST

AVI TRIMBAK DESHMUKH, M.D.

BEFORE THE

TEXAS MEDICAL BOARD

COMPLAINT

TO THE HONORABLE TEXAS MEDICAL BOARD AND THE HONORABLE
ADMINISTRATIVE LAW JUDGE TO BE ASSIGNED:

COMES NOW, the Staff of the Texas Medical Board (the "Board"), and files this Complaint against Avi Trimbak Deshmukh, M.D., ("Respondent"), based on Respondent's alleged violations of the Medical Practice Act ("the Act"), TEX. OCC. CODE ANN., Title 3, Subtitle B, Chapters 151 – 165 (Vernon's 2004 & Supp. 2005), and would show the following:

I. Introduction

The filing of this Complaint and the relief requested are necessary to protect the health and public interest of the citizens of the State of Texas, as provided in Section 151.003 of the Act.

II. Legal Authority and Jurisdiction

Respondent is a Texas physician and holds Texas medical license number H-1067, issued by the Board on December 3, 1986, which was in full force and effect at all times material and relevant to this Complaint. All jurisdictional requirements have been satisfied.

III. Procedural Background

1. The Board received information that Respondent may have violated the Act and, based on that information, conducted an investigation. The investigation compiled evidence that support allegations of a violation.

2. Respondent was invited to attend an Informal Show Compliance Proceeding and

Settlement Conference ("ISC"), held on March 18, 2005, which was conducted in accordance with §2001.054(c), GOV'T CODE and §164.004 of the Act. The Board representatives, including at least one physician ("Panel"), reviewed and considered evidence from the investigation, as well as any information presented by Respondent. The Panel determined that Respondent had not shown compliance with all requirements of the Act.

3. In an attempt to resolve this matter informally, the Panel offered Respondent a proposed Agreed Order, setting forth certain terms and conditions. Respondent failed and/or refused to agree to the proposed settlement offer and no agreement to settle this matter has been reached by the parties.

IV. Factual Allegations

Board Staff has received information and on that information believes that Respondent has violated the Act. Based on such information and belief, Board Staff alleges:

1. Patient L.E. was a 46 year-old female who had progressive urinary stress incontinence and was referred to the Respondent on January 18, 2003.

2. After performing a cystoscopic exam, the Respondent recommended repair with a tension-free vaginal tape (TV tape) urethropexy. This surgery was performed on February 11, 2003.

3. Postoperatively, the patient was unable to void. The Respondent repeated a cystoscopic exam on June 13, 2003 and documented that he did not see any erosion associated with the TV tape.

4. The Respondent continued to see L.E. for complaints of difficulty voiding and discomfort and finally decided to cut the TV tape to allow for better voiding. The surgery was done on June 20, 2003. A repeat cystoscopic exam was not done at that time. The Respondent noted, "The patient's previous cystoscopy in the office showed no erosion on the TV tape in the bladder."

5. L.E. consulted with Dr. Mark McCurdy on October 30, 2003. A cystoscopic examination on that date demonstrated stones in the urinary bladder attached to pieces of TV tape.

6. Urine culture showed greater than 100,000 colonies of enterococcus species. The stones were 70% magnesium ammonium phosphate, the type of stone known to be caused by urinary tract infection.

7. Dr. McCurdy attempted to remove the foreign bodies from the patient's bladder cystoscopically and with laser litholapaxy. The cystoscopic findings were described as, "The nidus

for stone formation were bilateral tension-free vaginal tapes, which were seen emanating through both bladder walls laterally, both right and left sides." Further description states, "It was found that the TV tape was penetrating both left and right lateral walls of her bladder and incorporated was significant stone burden."

8. On December 30, 2003, the patient underwent open cystotomy with removal of the foreign bodies. The TV tape was reported as mal-positioned within the bladder bilaterally. The four entry points into the bladder of the tape were circumscribed and removed in toto with the tape and surrounding layer wall and mucosa.

9. Once the TV tape had been removed, the patient's clinical course was uneventful. The patient had no further symptoms of urgency, frequency, or urinary tract infection.

10. Respondent failed to meet the standard of care in this case in that Respondent:

- i. Perforated the bladder on both sides and did not recognize the perforation during the original operation to install the TV tape;
- ii. Did not repeat a cystoscopic exam when he cut the TV tape on June 20, 2003.

V. Applicable Statutes, Rules, and Agency Policy

Respondent's conduct, as described above, constitutes grounds for the Board to revoke or suspend Respondent's Texas medical license or to impose any other authorized means of discipline upon the Respondent. The following statutes, rules, and agency policy are applicable to this matter:

A. PROCEDURES FOR THE CONDUCT OF THIS HEARING:

1. Section 164.007(a) of the Act requires that the Board adopt procedures governing formal disposition of a contested case before the State Office of Administrative Hearings.
2. 22 TEX. ADMIN. CODE, Chapter 187 sets forth the procedures adopted by the Board under the requirement of Section 164.007(a) of the Act.
3. 1 TEX. ADMIN. CODE §155.3(c) provides that the procedural rules of the state agency on behalf of which the hearing is conducted govern procedural matters that relate to the hearing as required by law, to wit: Section 164.007(a) of the Act, as cited above.

4. 1 TEX. ADMIN. CODE, CHAPTER 155 sets forth the rules of procedure adopted by SOAH for contested case proceedings:

B. VIOLATIONS WARRANTING DISCIPLINARY ACTION:

1. Texas Occupation Code, §164.051 (a)(6) - Failure to practice medicine in an acceptable manner consistent with public health and welfare.
2. Texas Occupation Code, §164.052(a)(5) - Commits unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by Section 164.053, or injure the public.
3. Texas Occupation Code, §164.053(a)(5) - Prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed.

C. SANCTIONS THAT MAY BE IMPOSED:

1. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule. Such sanctions include: revocation, suspension, probation, public reprimand, limitation or restriction on practice, counseling or treatment, required educational or counseling programs, monitored practice, public service, and an administrative penalty.
2. Chapter 165, Subchapter A of the Act sets forth statutory requirements for the amount and basis of an administrative penalty.
3. 22 TEX. ADMIN. CODE § 187.39 authorizes the Board to assess, in addition to any penalty imposed, costs of the investigation and administrative hearing in the case of a default judgment or upon adjudication that Respondent is in violation of the Act after a trial on the merits.
4. 22 TEX. ADMIN. CODE Chapter 190 provides disciplinary guidelines intended to provide guidance and a framework of analysis for administrative law judges in the making of recommendations in contested licensure and disciplinary matters and to provide guidance as to the types of conduct that constitute violations of the Act or board rules.

VI. NOTICE TO RESPONDENT

IF YOU DO NOT FILE A WRITTEN ANSWER TO THIS NOTICE WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN 20 DAYS OF THE DATE NOTICE OF SERVICE WAS MAILED, A DEFAULT JUDGMENT MAY BE ENTERED AGAINST YOU, WHICH MAY INCLUDE THE DENIAL OF LICENSURE OR ANY OR ALL OF THE REQUESTED SANCTIONS INCLUDING THE REVOCATION OF YOUR LICENSE. IF YOU FILE A WRITTEN ANSWER, BUT THEN FAIL TO ATTEND THE HEARING, A DEFAULT JUDGMENT MAY BE ENTERED AGAINST YOU, WHICH MAY INCLUDE THE DENIAL OF LICENSURE OR ANY OR ALL OF THE REQUESTED SANCTIONS INCLUDING THE REVOCATION OF YOUR LICENSE. A COPY OF ANY RESPONSE YOU FILE WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS SHALL ALSO BE PROVIDED TO THE HEARINGS COORDINATOR OF THE TEXAS STATE BOARD OF MEDICAL EXAMINERS.

PURSUANT TO 22 TEX. ADMIN. CODE § 187.27(a)(2), A WRITTEN ANSWER SHALL SPECIFICALLY ADMIT OR DENY EACH FACTUAL ALLEGATION MADE AGAINST THE RESPONDENT.

WHEREFORE, PREMISES CONSIDERED, Board Staff requests that an administrative law judge employed by the State Office of Administrative Hearings conduct a contested case hearing on the merits of the Complaint, in accordance with Section 164.007(a) of the Act. Upon final hearing, Board Staff requests that the Honorable Administrative Law Judge issue a Proposal for Decision ("PFD") that reflects Respondent's violation of the Act as set forth in this Complaint. Following issuance of the PFD, Board Staff requests that the Board, pursuant to § 164.001 and § 165.003 of the Act and Board Rules 187.30, 187.39, 190.8, 190.14, 190.15 and 190.16, enter an Order imposing any and all sanctions or disciplinary measures necessary to protect health and public welfare, including the imposition on Respondent of SOAH hearing costs and an administrative penalty.

Respectfully submitted,

TEXAS MEDICAL BOARD

By:

Mark Martyn

Mark Martyn, Staff Attorney
Texas State Bar No: 24029708
Texas State Board of Medical Examiners
333 Guadalupe, Tower 3, Suite 610
Austin, Texas 78701
(512) 305-7088
(512) 305-7007 (Fax)

THE STATE OF TEXAS

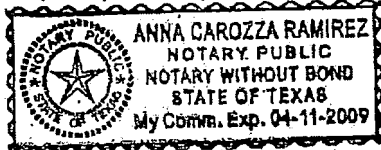
COUNTY OF TRAVIS

§
§
§

SUBSCRIBED AND SWORN to before me by the said Mark Martyn on

August 18, 2006

Anna Carozza Ramirez
Notary Public, State of Texas



Filed with the Texas Medical Board on

August 18, 2006

STATE OF TEXAS
COUNTY OF TRAVIS

Chetiv Reddy certify that I am an official
Assistant custodian of records for the Texas Medical Board
and that this is a true and correct Copy of the original, as it
appears on file in this office.

Donald W. Patrick
Donald W. Patrick, M.D., J.D.
Executive Director
Texas Medical Board

Witness my official hand and seal of the Board,
this 13th day of December, 2007
Chetiv Reddy
Assistant Custodian of Records

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Exhibit B
State Medical Board of Ohio Order

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

AVINASH T. DESHMUKH, M.D.

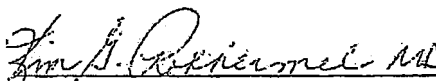
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ENTRY OF ORDER

On January 25, 2018, Avinash T. Deshmukh, M.D., executed a Surrender of his license to practice medicine and surgery in Ohio with consent to permanent revocation, which document is attached hereto and fully incorporated herein.

Wherefore, upon ratification by the Board of the surrender, it is hereby ORDERED that Certificate No. 35.044484 authorizing Avinash T. Deshmukh, M.D., to practice medicine and surgery in the State of Ohio be permanently REVOKED.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 14th day of February 2018, and the original thereof shall be kept with said Journal.



Kim G. Rothermel, M.D.
Secretary

(SEAL)

February 14, 2018

Date

**STATE OF OHIO
THE STATE MEDICAL BOARD
PERMANENT SURRENDER OF CERTIFICATE
TO PRACTICE MEDICINE AND SURGERY**

Do not sign this agreement without reading it. An individual who permanently surrenders a certificate issued by the Board is forever thereafter ineligible to hold a certificate to practice or to apply to the Board for reinstatement of the certificate or issuance of any new certificate. You are permitted to be accompanied, represented and advised by an attorney, at your own expense, before deciding to sign this voluntary agreement.

I, Avinash T. Deshmukh, M.D., am aware of my rights to representation by counsel, the right of being formally charged and having a formal adjudicative hearing, and do hereby freely execute this document and choose to take the actions described herein.

I, Avinash T. Deshmukh, M.D., do hereby voluntarily, knowingly, and intelligently surrender my certificate to practice medicine and surgery, License #35.044484, to the State Medical Board of Ohio [Board], thereby relinquishing all rights to practice medicine and surgery in Ohio.

I understand that as a result of the surrender herein I am no longer permitted to practice medicine and surgery in any form or manner in the State of Ohio.

I agree that I shall be ineligible for, and shall not apply for, reinstatement or restoration of certificate to practice medicine and surgery License #35.044484 or issuance of any other certificate pursuant to the authority of the State Medical Board of Ohio, on or after the date of signing this Permanent Surrender of Certificate to Practice Medicine and Surgery. Any such attempted reapplication shall be considered null and void and shall not be processed by the Board.

I hereby authorize the State Medical Board of Ohio to enter upon its Journal an Order permanently revoking my certificate to practice medicine and surgery, License #35.044484, in conjunction with which I expressly waive the provision of Section 4731.22(B), Ohio Revised Code, requiring that six (6) Board Members vote to revoke said certificate, and further expressly and forever waive all rights as set forth in Chapter 119, Ohio Revised Code, including but not limited to my right to counsel, right to a hearing, right to present evidence, right to cross-examine witnesses, and right to appeal the Order of the Board revoking my certificate to practice medicine and surgery.

I, Avinash T. Deshmukh, M.D., hereby release the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This document shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. I, Avinash T. Deshmukh, M.D., acknowledge that my social security number will be used if this information is so reported and agree to provide my social security number to the Board for such purposes.

Permanent Surrender of Certificate
Avinash T. Deshmukh, M.D.
Page 2 of 2

I stipulate and agree that I am taking the action described herein in lieu of formal disciplinary proceedings pursuant to Section 4731.22(B)(22), Ohio Revised Code, related to action taken against my license by the Texas Medical Board on or about October 20, 2017

EFFECTIVE DATE

It is expressly understood that this Permanent Surrender of Certificate is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below. Further, I specifically acknowledge that the electronic transmission of a scanned or photostatic copy of any executed signature to this Consent Agreement, upon being received by the Board, shall be deemed to have the full legal force and effect as the original.

Avinash Trimbak Deshmukh, M.D.
AVINASH TRIMBAK DESHMUKH, M.D.

January 25th 2018
DATE

Kim G. Rothermel, M.D.
KIM G. ROTHERMEL, M.D.
Secretary

2-14-18
DATE

Bruce R. Saferin, D.P.M.
BRUCE R. SAFERIN, D.P.M.
Supervising Member

2-14-18
DATE

Adam D. Meigs
ADAM D. MEIGS
Enforcement Attorney

1/25/18
DATE